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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/656,020

Filing Date: September 05, 2003

Appellant(s): MCARDLE ET AL.

Jason S. Feldmar
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/16/2008 appealing from the Office action
mailed 4/16/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0191219	BONDY et al.	12-2002
2004/0225958	HALPERT et al.	11-2004
2002/0083082	FUJIEDA	6-2002
6,850,946	RAPPAPORT et al.	2-2005

(9) Grounds of Rejection

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-9, 11-19 and 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bondy et al. ('Bondy' hereinafter) (Publication Number 2002/0191219) in view of Halpert et al. ('Halpert' hereinafter) (Publication Number 2004/0225958) and further in view of Fujieda (Publication Number 2002/0083082).

As per claim 1, Bondy teaches

A computer-implemented method for defining a project comprising: (see abstract and background)

- (a) obtaining a project file comprising general information regarding the project; (project, paragraph [0018])
- (b) creating a directory structure for the project wherein: (set up directory structure, paragraph [0018])

(i) one or more project drawing files are organized into various folders by drawing file type of the one or more project drawing files; (stored in folders, paragraph [0019])

(ii) the one or more project drawing files are composed of either a building information model for the project or a report generated from the building information model; (template, paragraph [0020]) and

(iii) the one or more project drawing files are organized into the various folders based on the building information model or the report accordingly; (stored in repository, paragraph [0020])

(c) obtaining a companion file for each project drawing file, wherein each companion file provides information used to create the directory structure (set up directory structure and resources stored into folders in accordance with the configuration file, paragraphs [0018]-[0019]) and comprises information to link each project drawing file to the project based on the building information model or the report; (tags to identify resources, paragraph [0019]).

Bondy does not explicitly indicate “(d) displaying, in the computer graphics program on a display device, the one or more project drawing files in the various folders”.

However, Halpert discloses “(d) displaying, in the computer graphics program on a display device, the one or more project drawing files in the various folders” (viewer, paragraph [0096]; figure 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy and Halpert because using the steps of “(d)

displaying, in the computer graphics program on a display device, the one or more project drawing files in the various folders" would have given those skilled in the art the tools give a visual representation of the project structure. This gives the user the advantage of being able to view the project structure.

Neither Bondy nor Halpert explicitly indicate

However, Fujieda discloses "in a computer graphics program" (CAD application, paragraph [0046], lines 6-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy, Halpert and Fujieda because using the steps of "in a computer graphics program" would have given those skilled in the art the tools to improve the invention by enabling the management of different types of CAD data. This gives the user the advantage of a single source for data management.

As per claim 2,

Bondy does not expressly show the general information is selected from a group consisting of: a project name; a project number; a project level; a project division; a first default template for a new element; a second default template for a new construct; a third default template for a new view; and a fourth default template for a new sheet.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The composition of the generation information does not change the function of the claim. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of

patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to select various pieces of information for the general information because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per claim 3,

Bondy does not explicitly indicate "the project drawing file comprises an extensible markup language (XML) document".

However, Halpert discloses "the project drawing file comprises an extensible markup language (XML) document" (paragraph [104], lines 2-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy and Halpert because using the steps of "the project drawing file comprises an extensible markup language (XML) document" would have given those skilled in the art the tools to improve the invention by allowing the use of a standardized format. This gives the user the advantage of being able to read the data across a variety of applications.

As per claim 4, Bondy teaches the companion file (paragraph [0019], lines 2-4).

Bondy does not explicitly indicate "comprises an extensible markup language (XML) file".

However, Halpert discloses "comprises an extensible markup language (XML) file" (paragraph [104], lines 2-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy and Halpert because using the steps of "comprises an extensible markup language (XML) file" would have given those skilled in the art the tools to improve the invention by allowing the use of a standardized format. This gives the user the advantage of being able to read the data across a variety of applications.

As per claim 5, Bondy teaches

the various folders comprise: an elements folder for element type drawing files within the building information model; a constructs folder for construct type drawing files within the building information model; a views folder for view type drawing files for the report; and a sheets folder for sheet type drawing files for the report. (directory structure, paragraph [0019], lines 2-4; note that "for" indicates intended use; Minton v. Nat'l Ass'n of Securities Dealers, Inc., 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003) "whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited." Examples of claim language, although not exhaustive, that may raise a question as to the limiting effect of the language in a claim are: (A) "adapted to" or "adapted for" clauses; (B) "wherein"

clauses; and (C) "whereby" clauses. Therefore intended use limitations are not required to be taught, see MPEP § 2106 Section II(C), MPEP 2111.04 [R-3])

As per claim 6,

Bondy does not explicitly indicate "the element type drawing file comprises a set of geometry, wherein the set of geometry is repeated one or more times throughout a project".

However, Halpert discloses "the element type drawing file comprises a set of geometry, wherein the set of geometry is repeated one or more times throughout a project" (paragraph [0084], lines 3-6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy and Halpert because using the steps of "the element type drawing file comprises a set of geometry, wherein the set of geometry is repeated one or more times throughout a project" would have given those skilled in the art the tools reuse work previously completed. This gives the user the advantage of saving time by reusing work.

As per claim 7,

Bondy does not expressly show the construct type drawing file comprises: an identification of geometry and data for a particular level/wing and category of the project; and one or more elements.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The data contained in the drawing file is not functionally distinguished in the claim. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to place various pieces of information into a file because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per claim 8,

Bondy does not explicitly indicate "the view type drawing file automatically assembles appropriate constructs to represent a portion of a project that has been selected based upon user specified data"

However, Halpert discloses "the view type drawing file automatically assembles appropriate constructs to represent a portion of a project that has been selected based upon user specified data" (paragraph [0092]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy and Halpert because using the steps of "the view type drawing file automatically assembles appropriate constructs to represent a

portion of a project that has been selected based upon user specified data" would have given those skilled in the art the tools to reuse work previously completed. This gives the user the advantage of saving time by reusing work.

As per claim 9, Bondy teaches
the sheet type drawing file comprises one or more views and represents a
printed/Plotted document. (paragraph [0039], lines 14-17)

As per claims 11-19,
These claims are rejected on grounds corresponding to the arguments given
above for rejected claims 1-9 and are similarly rejected.

As per claims 21-29,
These claims are rejected on grounds corresponding to the arguments given
above for rejected claims 1-9 and are similarly rejected.

Claims 10, 20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable
over Bondy et al. ('Bondy' hereinafter) (Publication Number 2002/0191219) in view of
Halpert et al. ('Halpert' hereinafter) (Publication Number 2004/0225958) and further in
view of Fujieda (Publication Number 2002/0083082) and further in view of Rappaport et
al. ('Rappaport' hereinafter) (Patent Number 6,850,946).

As per claim 10,

Bondy does not explicitly indicate the obtaining a companion file further comprises: defining a category and value for project information; storing said category and value in the companion file.

However, Halpert discloses the obtaining a companion file further comprises: defining a category and value for project information; storing said category and value in the companion file (paragraph [0081]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy and Halpert because using the steps of the obtaining a companion file further comprises: defining a category and value for project information; storing said category and value in the companion file would have given those skilled in the art the tools to customize project information. This gives the user the advantage of having control over how a project is defined.

Neither Bondy, Halpert nor Fujieda explicitly indicate "user defined".

However, Rappaport discloses "user defined" (column 6, lines 50-52).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy, Halpert, Fujieda and Rappaport because using the steps of "user defined" would have given those skilled in the art the tools to improve the invention by allowing user customization of important information. This gives the user the advantage of more control over the content of that data.

As per claim 20,

This claim is rejected on grounds corresponding to the arguments given above for rejected claim 10 and is similarly rejected.

As per claim 30,

This claim is rejected on grounds corresponding to the arguments given above for rejected claim 10 and is similarly rejected.

(10) Response to Argument

Appellant's argues regarding claims 1, 11 and 21, that Bondy does not disclose obtaining a project file in a computer graphics program. While Bondy does describe "a system for printing a project of documents" (paragraph [0005], lines 1-2) which could be considered a computer graphics program, in order to more clearly describe the computer graphics program Fujieda was referenced as teaching this element as "in a computer graphics program" (paragraph [0046], lines 6-8). The project file can be found in the Halpert reference as "the Microsoft Project file (*.mpp, *.mpt)" (paragraph [0091], lines 3-4). There it is respectfully submitted that the combination of these references teaches the limitation.

Further regarding claims 1, 11, and 21, Appellant argues that Bondy does not disclose project drawing files organized into folders by drawing type. In order to understand how Bondy does we look to the following citation:

"Resources for the project, such as images, fonts, and graphics, are acquired in step 204. Also, in step 204, the resources for the project are stored in folders, i.e. directories, in accordance with the configuration file and tagged with appropriate metadata tags to identify the resources and associate the resources with the proper project and documents." (Bondy, paragraph [0019], lines 1-7)

Here we see that the resources are defined by type such as images and fonts and stored in folders, which shows that the type of the resource defines the folder in which it is stored. Here Bondy teaches that images are stored in a certain folder and fonts in another folder, which shows that the type of the resource defines where it is stored.

Further regarding claims 1, 11, and 21, Appellant argues that Bondy does not provide a building information model for the project or a report generated from the model. Respectfully, Bondy discloses:

"In step 210, a markup of the page layout design is imported into repository 44 and a static portion of the print job is created as a template. In step 212, conventional design tools are used to resize and/or rearrange images of the static portion if necessary and in step 214, updates are stored in repository 44. Steps 210, 212, and 214 can be accomplished in a repeated manner until the image resources are correctly sized and arranged. All resources and template pages are tagged and stored to correspond to the project in the most recent updated form." (Bondy, paragraph [0020])

Here we see that there are both a page layout design and a template which is created based on the design. The page layout design and template in Bondy are the

model upon which the project can be created and stored to correspond to the project. This reads on one or more project drawing files are a model or a report generated by the model. Appellant further argues that building information provides specific meaning for a model, however it is respectfully submitted that absent specific descriptions of how the model is different from any other model, Bondy's layout design can read on this model. Appellant further argues that Bondy does not teach organization of drawing files into folders based on an information model, however the above citation describes resources tagged and stored to correspond to the project in the most recent update form, which is the page layout design. Therefore Bondy does teach one or more project drawing files are organized based on the model.

Further regarding claims 1, 11, and 21, Appellant argues that Bondy provides a single project file. It is respectfully submitted that a project file can be found in the Halpert reference as "the Microsoft Project file (*.mpp, *.mpt)" (paragraph [0091], lines 3-4) which contains data described in the following citation:

"Another example of structured data is the case of a project schedule produced by an application like Microsoft Project file. In this case, the structured data that can be recognized includes the tasks and sub-tasks of the schedule." (Halpert, paragraph [0007])

Here we see that Halpert describes information which can be considered "general information regarding the project" as claimed by the Appellant. Further, Bondy describes a "configuration file for the project" (paragraph [0018], lines 19-20) that resources for the project are stored in folders "in accordance with the configuration file" (paragraph [0019], lines 2-5).

Further regarding claims 1, 11, and 21, Appellant argues that Bondy does not teach a companion file is created for each project drawing file. Respectfully, Bondy teaches that resources for the project are stored in directories according to the configuration file (paragraph [0019], lines 2-4 as shown previously), and each "project is composed into documents and submitted to printer" (paragraph [0021], lines 17-18). It is respectfully submitted that the entire project could represent a single document which would read on the project drawing file for which the configuration file stores resources in folders. Therefore it is respectfully submitted that Bondy teaches these limitations.

Further regarding claims 1, 11, and 21, Appellant argues that Bondy does not teach that the companion file is used to create a directory structure. Examining the following citation:

"In step 202, a file structure and directory structure for the project is set up in repository 140 in accordance with an assigned identification, such as a customer ID and a job ID. The ID is used as metadata to permit tracking and reporting of status and other variables. The file structure, ID and other project specific data can be stored as a configuration file for the project." (paragraph [0018], lines 14-20)

Here we see that the directory structure for the project is set up based on the ID and that the ID can be stored as a configuration file. The configuration file is used to determine where in the directory structure the resources are stored (paragraph [0019], lines 1-3, as shown previously), and therefore it is submitted that Bondy does teach that the companion file is used to create a directory structure.

Appellant's argues regarding claims 2, 12 and 22, that the limitations are not non-functional descriptive material and that such general information is used as part of an association/linkage, it is respectfully submitted that it is not clear how such associations or linkages are implemented in the claims. The items are introduced for the first time and only time in the claim language and therefore are not and cannot be linked or associated with anything. Therefore it is submitted that the rejection of the limitations as non-functional descriptive material is valid.

Appellant's argues regarding claims 3-4, 13-14 and 23-24, that Halpert does not disclose and XML document but only that communications can occur via XML messaging. The following citation is important to understanding how Halpert teaches these limitations:

"FIG. 14 shows a partial listing of the ApXML generated from the Visio drawing shown in FIG. 10. The Face XML 710 node at the top of the page is used to create the project element that represents the entire drawing itself. Face tags are used to represent project elements that will be created in the data model hierarchy. Underneath the top level Face tag is a list of child Face tags. There is a one-to-one correspondence between the Face tags in the ApXML and the shapes on the layers that were selected to be converted to project elements. Face tag 720 shows the face tag for the "Desktop PC" shape." (Halpert, paragraph [0106])

Examining this citation shows how project elements are stored in an XML document, and figure 14 shows an XML notepad which shows an XML file or document storing a project. Respectfully, this shows that Halpert does teach the argued limitations.

With respect to Appellant's arguments regarding claims 5, 15 and 25, that Bondy does not disclose various directories, it is respectfully submitted that not only is the contents of the various folders non-functional, it is also submitted that the "for" statement in each of the folder descriptions indicates intended use of the data inside of that directory. As noted in the rejections, the intended use is not required to be taught although it is nonfunctional regardless. Regarding Appellant's argument that Bondy does not disclose equivalent directory structures, it is submitted that Bondy discloses that "the resources for the project are stored in folder, i.e. directories", which is equivalent to the directories in the claim language since the directories in both contain information regarding that project that is not made functional. It is therefore respectfully submitted that the directory elements of the limitations are taught by Bondy and the remaining elements are non-functional and further are simply intended use.

With respect to Appellant's arguments regarding claims 6, 16 and 26, that Bondy in view of Halpert does not disclose that a structure can be repeated within the project, it is respectfully noted that Halpert discloses that a structure can be imported into a matching structure as shown in the following citation:

"The structured data publishing system of the present invention thus provides a user the ability to import any document or file that contains structured data onto a web site and have that structure automatically expanded into a matching structure on the site itself. The system maintains back references to objects in the original structure so that if the original, application-specific file is modified, the data that is associated with that object on the website is also appropriately modified." (paragraph [0084])

The geometry is simply data since the functionality of the repeating of these elements is not clear, so the importing or repeating of an element is therefore taught by Halpert.

Appellant's argues regarding claims 7, 17 and 27, that the limitations are not taught by Bondy, it is respectfully submitted that the claimed identification of geometry and data for a level/wing and category, and one or more elements are in no way made functional in the claims and therefore constitute non-functional descriptive material and is not required to be taught. In order to differentiate such data from non-functional data and the Appellant should consider detailing how such data is used in the claim language.

With respect to Appellant's arguments regarding claims 8, 18 and 28, that Bondy in view of Halpert does not disclose that the view type drawing file automatically assembles appropriate constructs to represent a portion of a project that has been selected based upon user specified data, it is respectfully noted that Halpert discloses processing a project data file selected by a user and contains project data which is clearly specified by the user who created the project, and using the appropriate processing type for the file as shown in the following citation:

"Referring again to FIGS. 1, 2A and 2B, when a file is dropped on the Inbox 560, a number of steps occur to determine how to process the file. First the Inbox Control 110 receives the Microsoft Project data file and passes it to the DataSelector 120. The DataSelector 120 determines what DataClients 130, 140, 150, are available on the Client computer 100 and passes the Microsoft Project data file to each of these DataClients 130, 140, 150. Each DataClient 130, 140,

150, examines the Microsoft Project data file and determines if it can process that particular file type (*.mpp, *.mpt). Each DataClient 130, 140, 150 returns an acknowledgment to the DataSelector 120 in the form of a bid. The highest bidding DataClient is the one that is selected to process the file. In this case, where a Microsoft Project file was dropped on the Inbox of a Structured Publishing Node, the highest bidding DataClient will be the MsProjDataClient 140. This DataClient knows how to extract the task hierarchy and task information from a Microsoft Project schedule and to build an ApXML data file to describe this structure to the ActiveProject Server 200. As described above, new DataClients can be developed and added to support any file type." (Halpert, paragraph [0092]).

The claim can be interpreted as directed towards most any type of data, and the processing of the project file in Halpert is equivalent to the claimed assembling of the project that has been selected by the user. Therefore it is submitted that Halpert discloses the limitation.

With respect to Appellant's arguments regarding claims 9, 19 and 29, that Bondy does not disclose the sheet type drawing file comprises one or more views and represents a printed/Plotted document, it is respectfully noted that Bondy discloses layouts and images that represent catalogs which can be delivered for printing as shown in the following citation:

"As an example, the embodiment can be used to print personalized catalogs for a targeted marketing campaign by a mail order retailer. The retailer has a database (variable data source 34) containing profiles of its customers and a history of their purchases, i.e. customer relationship management (CRM) data. The retailer can employ a graphic designer to create a layout for personalized catalogs and store the layout as a template in repository 144." (Bondy, [0039])

It is respectfully submitted that these layouts which can be delivered for printing teach the claimed views which represent a printed/Plotted document. Appellant further

argues that the claims are specifically directed towards the building industry and a CAD application, however it is submitted that images and layouts in catalogs are images as well and that the claims do not specify any CAD application. Therefore Bondy discloses the limitation.

Appellant's argues regarding claims 10, 20 and 30, that Rappaport does not disclose the claimed user-defined category because in the claims, as part of obtaining the companion file, a user definable category and value are defined for the project information. It is respectfully submitted that Rappaport is only disclosed as teaching the user defined element in the claim as "a user-defined category" (column 6, lines 50-52). The remaining limitations are not shown as taught by Rappaport and therefore the limitation is question is taught.

Conclusion:

It is respectfully submitted that a combination of the references cited disclose the claimed method, apparatus and article of manufacture comprising a program storage medium for defining a project in a computer graphics program. In light of the forgoing arguments, the Examiner respectfully requests the honorable Board of Appeals and Interferences to sustain the rejection.

Conclusion:

The references cited disclose the claimed systems for defining a project in a computer graphic program. In light of the forgoing arguments, the examiner respectfully requests the honorable Board of Appeals and Interferences to sustain the rejection.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,

/Jay Morrison/

Jay Morrison, Assistant Examiner, AU 2168

November 26, 2008

Conferees:

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